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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,030	11/27/2000	Ronald Kronenbeger		5660

7590 06/27/2002

WOOD, PHILLIPS, VAN SANTEN, CLARK & MORTIMER  
SUITE 3800  
500 WEST MADISON STREET  
CHICAGO, IL 60661

EXAMINER

MORAN, KATHERINE M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 06/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/723,030

Applicant(s)

KRONENBEGER, RONALD

Examiner

Katherine M Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The finality of the rejection of the last Office action is withdrawn in view of newly discovered prior art. The amendment of 5/20/02 will be entered.
2. The indicated allowability of claims 4, 23, and 24 is withdrawn in view of the newly discovered reference to Park (U.S. 6,311,331). Rejections based on the newly cited reference follow.

### ***Claim Objections***

3. Claim 23 is objected to because of the following informalities: line 7, delete "." after state and insert --,--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 and 9-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park (U.S. 6,311,331) in view of Dow (U.S. 5,903,921). Park '331 discloses the invention substantially as claimed. Park teaches a headwear piece with a front, rear, crown portion 1 comprising a head engaging portion extending through 360 degrees, and a visor 2. The visor 2 has a relaxed, cylindrical shape, with a first width dimension taken transversely to a fore-and-aft

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line, and a deformed state with a second width dimension taken transversely to the fore-and-aft line that is less than the first width dimension. A portion of the crown is folded forwardly toward the visor as shown in Figures 8 and 9. Figure 9 shows the visor folded against itself through 360 degrees, with the crown portion 1 folded onto itself and held within the cylindrical area of the folded visor. It is well known in the art to provide caps with crown portions extending through less than 360 degrees. This configuration allows for better air circulation and requires less material. However, Park does not teach at least one holding element that is fully separable from the headwear piece, which maintains the visor in the deformed state so that the visor has a second width dimension. Park also does not teach that the visor comprises a foam layer, and that the holding element is a continuous band or a string with joinable ends. Dow '921 teaches a headwear piece with a foam visor portion 14 a separable string 56 forming a tubular body having two joinable end portions for holding the visor and crown in a compact state. Alternatively, it would have been obvious to use a continuous band to prevent the holding element from coming apart during usage. Therefore, it would have been obvious to one of ordinary skill in the art to provide the visor of Park with a foam layer as taught by Dow because foam is a resilient material which resists breaking when folded or crushed. It also would have been obvious to provide a holding element for Park's hat to ensure that the hat is maintained in the folded position for ease of carrying and transporting.

6. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park '331 in view of Dow '921 and Baptiste (U.S. 4,821,341). Park/Dow discloses the invention substantially as claimed and discussed above. However, Park does not teach a holding element in the form of a cylindrical tube. Baptiste '341 teaches a headwear piece 44 and visor 62 which may be folded

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and held in a deformed state within a transparent cylindrical tube 80 (Figure 12) when not in use. The tube includes an open end secured by a top cover 86 and bottom cover 88. Therefore, it would have been obvious to one of ordinary skill in the art to provide the folded crown/visor of Park with a cylindrical tube as taught by Baptiste for protecting, storing and transporting the headwear.

### *Response to Arguments*

7. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new grounds of rejection.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hurst (U.S. 2,864,092) teaches a collapsible sun hat and Galigani (U.S. 6,317,892) teaches a foldable hat.

Any inquiry concerning this communication or earlier communications should be directed to Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm and alternating Fridays.

The fax number for the organization where this application is assigned is (703)308-0758.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (703) 308-1148.

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Kmm

June 24, 2002

A handwritten signature in black ink, reading "Peter Nerbun". The signature is written in a cursive style with a large, looping initial "P".

**Peter Nerbun**  
**Primary Examiner**